

years on January 7, 2002 as a school that is in its second year of school improvement under §200.39 for the 2002-2003 school year.

(2) Not later than the first day of the 2002-2003 school year, the LEA must—

(i) In accordance with §200.44, provide public school choice to all students in the school; and

(ii) In accordance with §200.45, make available supplemental educational services to eligible students who remain in the school.

(d) An LEA may remove from improvement status a school otherwise subject to the requirements of paragraphs (b) or (c) of this section if, on the basis of assessments the LEA administers during the 2001-2002 school year, the school makes AYP for a second consecutive year.

(e)(1) An LEA may, but is not required to, identify a school for improvement if, on the basis of assessments the LEA administers during the 2001-2002 school year, the school fails to make AYP for a second consecutive year.

(2) An LEA that does not identify such a school for improvement, however, must count the 2001-2002 school year as the first year of not making AYP for the purpose of subsequent identification decisions under paragraph (a) of this section.

(f) If an LEA identifies a school for improvement after the beginning of the school year following the year in which the LEA administered the assessments that resulted in the school's failure to make AYP for a second consecutive year—

(1) The school is subject to the requirements of school improvement under §200.39 immediately upon identification, including the provision of public school choice; and

(2) The LEA must count that school year as a full school year for the purposes of subjecting the school to additional improvement measures if the school continues to fail to make AYP.

(Authority: 20 U.S.C. 6316)

[67 FR 71721, Dec. 2, 2002]

### § 200.33 Identification for corrective action.

(a) If a school served by an LEA under subpart A of this part fails to make AYP by the end of the second full school year after the LEA has identified the school for improvement under §200.32(a) or (b), or by the end of the first full school year after the LEA has identified the school for improvement under §200.32(c), the LEA must identify the school for corrective action under §200.42.

(b) If a school was subject to corrective action on January 7, 2002, the LEA must—

(1) Treat the school as a school identified for corrective action under §200.42 for the 2002-2003 school year; and

(2) Not later than the first day of the 2002-2003 school year—

(i) In accordance with §200.44, provide public school choice to all students in the school;

(ii) In accordance with §200.45, make available supplemental educational services to eligible students who remain in the school; and

(iii) Take corrective action under §200.42.

(c) An LEA may remove from corrective action a school otherwise subject to the requirements of paragraphs (a) or (b) of this section if, on the basis of assessments administered by the LEA during the 2001-2002 school year, the school makes AYP for a second consecutive year.

(Approved by the Office of Management and Budget under control number 1810-0576)

(Authority: 20 U.S.C. 6316)

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### § 200.34 Identification for restructuring.

(a) If a school continues to fail to make AYP after one full school year of corrective action under §200.42, the LEA must prepare a restructuring plan for the school and make arrangements to implement the plan.

(b) If the school continues to fail to make AYP, the LEA must implement the restructuring plan no later than